

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY  D.C.

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSEPHINE LEDEZMA,

Defendant.

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X

Cr. No. 91-20047 (Tu) M1

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W/D OF TN, MEMPHIS

ORDER DENYING IRREGULAR MOTION

On June 28, 2005, defendant, Josephine Ledezma, Bureau of Prisons registration number 94938-076, an inmate at the Federal Correctional Institution at Dublin, California (FCI), filed an application for leave to file a second or successive motion to vacate her sentence under 28 U.S.C. § 2255 with the Sixth Circuit Court of Appeals. See In re: Josephine Ledezma, No. 05-6029. Ledezma was convicted of one count of conspiracy to possess 1,600 kilograms of cocaine with intent to distribute, in violation of 21 U.S.C. § 841(a)(1) and § 846; and one count of aiding and abetting in the possession of 351 kilograms of cocaine with intent to distribute, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2.¹

Ledezma mailed a complimentary copy of the application to Clerk of this Court which was received on June 27, 2005. As the

¹ United States of America v. Ledezma, No. 92-6683, 26 F.3d 636 (6th Cir. June 10, 1994), rehearing denied, (Aug. 1, 1994)

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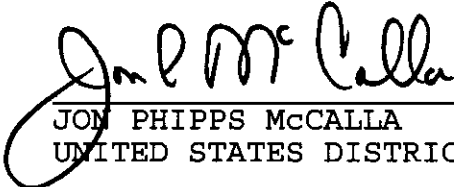
application had not yet been received or docketed by the Sixth Circuit, the Clerk docketed the application in this criminal case.

Ordinarily, this Court would direct the clerk to remove the application from the criminal case and transfer it to the United States Court of Appeals for the Sixth Circuit. In this case, however, transfer would be futile. Ledezma has already submitted this document to the Sixth Circuit and it is already considering Ledezma's request for permission to file a successive § 2255 motion.

This Court has no authority to consider a challenge to Ledezma's conviction or sentence until she obtains permission from the Court of Appeals for this circuit. 28 U.S.C. §§ 2244(B)(3), 2255. Accordingly, the irregular motion is DENIED.

It is, therefore, CERTIFIED, pursuant to Fed. R. App. 24(a) that any appeal in this matter by defendant, proceeding in forma pauperis, is not taken in good faith.

IT IS SO ORDERED this 18 day of July, 2005.


JON PHIPPS McCALLA
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 271 in case 2:91-CR-20047 was distributed by fax, mail, or direct printing on July 19, 2005 to the parties listed.

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Honorable Jon McCalla
US DISTRICT COURT